



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

FEB 27 2006

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Kenneth M. Lancaster, Treasurer
Gallagher for Senate
1500 San Remo Avenue, Suite #251
Coral Gables, Florida 33146

RE: MUR 5709
Gallagher for Senate

Dear Mr. Lancaster:

On February 24, 2006, the Federal Election Commission found that there is reason to believe Gallagher for Senate and you, as treasurer, violated 2 U.S.C. § 434b, a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). This finding was based on information ascertained by the Commission in the normal course of carrying out its supervisory responsibilities. See 2 U.S.C. § 437g(a)(2). The Factual and Legal Analysis, which more fully explains the Commission's finding, is attached for your information.

The Commission found reason to believe that you violated the Act in your official capacity as treasurer of Gallagher for Senate. The potential violation, however, involves obligations the Act specifically imposes on treasurers. Accordingly, the Commission may decide to pursue you in your personal capacity if the investigation in this matter shows that such an approach is warranted. See Statement of Policy Regarding Treasurers Subject to Enforcement Proceedings, 70 Fed. Reg. 3, 5 n.9 (Jan. 3, 2005).

Please telephone Beth Mizuno, the attorney assigned to this matter, at (202) , to schedule an interview and to arrange interviews of Richard Pinsky and the individual most knowledgeable about Gallagher for Senate's June 15, 18, and 28, 2004 media purchases from Media Placement Technologies.

In addition, you may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit such materials to the General Counsel's Office within 30 days of your receipt of this letter. Where appropriate, statements should be submitted under oath. In the absence of additional information, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be

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demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

If you are interested in pursuing pre-probable cause conciliation, you should so request in writing. See 11 C.F.R. § 111.18(d). Upon receipt of the request, the Office of the General Counsel will make recommendations to the Commission either proposing an agreement in settlement of the matter or recommending declining that pre-probable cause conciliation be pursued. The Office of the General Counsel may recommend that pre-probable cause conciliation not be entered into at this time so that it may complete its investigation of the matter. Further, the Commission will not entertain requests for pre-probable cause conciliation after briefs on probable cause have been mailed to the respondent.

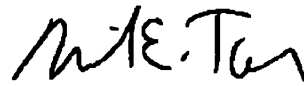
If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address, and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

Please note that you have a legal obligation to preserve all documents, records and materials relating to this matter until such time as you are notified that the Commission has closed its file in this matter. *See* 18 U.S.C. § 1519.

This matter will remain confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A), unless you notify the Commission in writing that you wish the investigation to be made public.

For your information, we have enclosed a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Beth Mizuno.

Sincerely,



Michael E. Toner
Chairman

Enclosures
Factual and Legal Analysis
Procedures
Designation of Counsel Form

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**FEDERAL ELECTION COMMISSION
FACTUAL AND LEGAL ANALYSIS**

RESPONDENT: **Gallagher for Senate and
Kenneth Lancaster, in his official
capacity as treasurer**

MUR: 5709

This matter was generated based on information ascertained by the Federal Election Commission ("the Commission") in the normal course of carrying out its supervisory responsibilities. See 2 U.S.C. § 437g(a)(2).]

Gallagher for Senate (the "Committee") is the authorized committee of Douglas Gallagher, a 2004 candidate for U.S. Senate in Florida. Kenneth Lancaster is the Committee's treasurer. Treasurer Lancaster filed the Committee's July Quarterly Report on July 15, 2004, and reported disbursements totaling \$1,146,493. On September 9, 2004, Assistant Treasurer Richard Pinsky filed an amended July Quarterly Report, and reported \$1,358,897 in additional disbursements. The \$1.3 million comprised the three disbursements outlined below.¹

| Date | Vendor | Amount | Purpose |
|----------|------------------------------|-----------|----------------------|
| 06/15/04 | Media Placement Technologies | \$455,992 | Television Broadcast |
| 06/18/04 | Media Placement Technologies | \$455,256 | Television Broadcast |
| 06/28/04 | Media Placement Technologies | \$447,647 | Television Broadcast |

¹ Gallagher for Senate, Amended July Quarterly Report, filed 07/15/04, Schedule B, Itemized Disbursements, page 126 (Attachment 1).

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The only explanation the Committee proffered for its reporting failure, *see* 2 U.S.C. § 434(b)(4), came in the following response to the Reports Analysis Division.

The amended July quarterly report, dated September 9, 2004, discloses a substantial increase in disbursements due to wire transfers for media purchases and other large transfers not included on the original report, which were picked up from the bank statements when the bank reconciliations were done.

(Attachment 2). The Committee's response explains how the Committee discovered the additional disbursements, but it does not explain why they were not included in the original July Quarterly Report.

Therefore, there is reason to believe that Gallagher for Senate and Kenneth Lancaster, in his official capacity as treasurer, violated 2 U.S.C. § 434(b) by failing to disclose disbursements totaling \$1,358,897 in its July 2004 Quarterly Report.

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